

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AH LIQUIDATION, INC., *et al.*,¹

Debtors.

Chapter 11

Case No. 21-10883 (CTG)

Jointly Administered

DRIVETRAIN LLC, in its capacity as
LIQUIDATING TRUSTEE for the
LIQUIDATING TRUST OF AH
LIQUIDATION, INC., AH IP
LIQUIDATION, INC., RM LIQUIDATION,
INC., BP LIQUIDATION, INC., and QAA
LIQUIDATION, INC.,

Plaintiff,

v.

DAVID FANN, PAUL COX, STEPHEN
WOODY, HUMBERTO ANTUNES, and
JOSEPH MCGUIRE,

Defendant.

Adv. No. 22-50392 (CTG)

**HUMBERTO ANTUNES' MOTION TO DISMISS PLAINTIFF'S COMPLAINT
PURSUANT TO RULES 12(B)(5) AND 12(B)(6)**

Defendant Humberto Antunes (“**Antunes**”), by and through his undersigned counsel, hereby moves this Court (the “**Motion**”), pursuant to Federal Rule of Civil Procedure (“Rule”) 12(b)(5) and alternatively, Rule 12(b)(6) (as made applicable herein by FED. R. BANKR. P. 7012), for an order in the form attached hereto as Exhibit A, dismissing all claims asserted by

¹ The Debtors, along with the last four (4) digits of each Debtor's federal tax identification number are: AH Liquidation, Inc. (8411); AH IP Liquidation, Inc. (7594); BP Liquidation Corp. (6483); QAA Liquidation, Inc. (5613); and RM Liquidation, Inc. (0430). A complete list of each of the Debtors in these Chapter 11 Cases may be obtained via the Bankruptcy Court at <https://ecf.deb.uscourts.gov/cgi-bin/login.pl> with a Public Access to Court Electronic Records (“PACER”) account, which may be obtained at <https://pacer.uscourts.gov>.

Drivetrain, LLC, in its capacity as liquidating trustee (the “**Liquidating Trustee**” or “**Plaintiff**”) for the Liquidating Trust² as successor in interest to the debtors, AH Liquidation, Inc. (f/k/a Avadim Health, Inc.), AH IP Liquidation, Inc. (f/k/a Avadim Health IP, Inc.), RM Liquidation, Inc. (f/k/a Relion Manufacturing, Inc.), BP Liquidation Corp. (f/k/a Bionome Properties Corp), QAA Liquidation, Inc. (f/k/a Quality Assurance Associates, Inc.)³ (collectively, the “**Debtors**” or the “**Company**”) in its Complaint filed on July 15, 2022 on the grounds that (1) Plaintiff has not been properly served with the Summons and Complaint, and in the alternative, (2) Plaintiff has failed to plead a claim upon which relief can be granted under Rule 12(b)(6). The grounds for the Motion are set forth fully in Opening Brief in Support of Humberto Antunes’ Motion to Dismiss Plaintiff’s Complaint Pursuant to Rules 12(b)(5) and 12(b)(6), filed contemporaneously herewith and incorporated herein by reference.

WHEREFORE, Antunes respectfully requests that this Court (i) enter an Order dismissing Plaintiff’s Complaint, with prejudice; and (ii) grant all other relief in favor of Antunes that this Court deems just and equitable.

² Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Combined Plan and Disclosure Statement (defined herein).

³ See D.I. 283 reflecting the change of name for each of the Debtors following the sale of certain assets pursuant to a Stalking Horse APA approved at D.I. 239.

Dated: December 9, 2022
Wilmington, Delaware

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